

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
(Attorney Docket № 14281US02)**

In the Application of:

Jeyhan Karaoguz, et al.

Serial № 10/675,653

Filed: September 30, 2003

For: MEDIA PROCESSING SYSTEM  
AUTOMATICALLY OFFERING  
ACCESS TO NEWLY AVAILABLE  
MEDIA IN A MEDIA EXCHANGE  
NETWORK

Examiner: Aaron N. Strange

Group Art Unit: 2153

Confirmation № 5800

***Electronically Filed on 17-NOV-2008***

**REPLY BRIEF**

MS: APPEAL BRIEF-PATENTS  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

In accordance with 37 CFR 41.41, the Appellant submits this Reply Brief in response to the Examiner's Answer mailed on September 24, 2008. Claims 1-30 are pending in the present Application. The Appellant has responded to the Examiner in the Examiner's Answer, as found in the following Argument section.

As may be verified in his final Office Action (page 3), dated 1/23/08 ("Final Office Action"), claims 1-7, 9, 11-17, 19, 21-27, and 29 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,644,714 ("Kikinis"). Claims 8, 10, 18, 20, 28, and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kikinis in view of U.S. Patent No. 5,913,032 ("Schwartz"). To aid the Board in identifying corresponding arguments, the Appellant has used the same headings in the Argument section of this Reply Brief as the headings found in the Appellant's corresponding Brief on Appeal. The Brief on Appeal has a date of deposit of July 24, 2008.

### **STATUS OF THE CLAIMS**

Claims 1-30 were finally rejected. Pending claims 1-30 are the subject of this appeal.

## ARGUMENT

### **II-A. Rejection of Independent Claims 1, 11, and 21**

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal.

In response to Appellant's Brief on Appeal, the Examiner is using the following argument stated on pages 8-9 of the Examiner's Answer:

Regarding claims 1, 11 and 21, Appellants argue that Kikinis does not disclose "comparing by said at least one media processing system, said one or more of said newly available media, data and service with data in a media profile associated with said at least one media processing system" (Br., 8). Appellants admit that Kikinis teaches a "profile" (Br., 9), but assert that the disclosed profile is not "associated with" the file servers (media processing systems) (Br., 10).

As an initial matter, it is noted that the claim language "associated with said at least one media processing system" is very broad. Almost anything related to the media processing system in any way is "associated with" it. In this case, Kikinis teaches that clients of the video service provide information to the file servers, including the details of their receiving equipment and topics of interest (col. 4, ll. 10-13). This information is subsequently used, by the file servers, to determine when to notify a particular subscriber of newly available media (col. 4, ll. 14-16; col. 5, ll. 34-36).

It is respectfully submitted that a profile, used by a file server to determine which subscribers are to be notified of a newly received media file, is a profile that is "associated with" the file server. Such an interpretation falls well within the broadest reasonable interpretation of the phrase "associated with".

The Appellant disagrees. As pointed out in the Appeal Brief, the Examiner equates Appellant's "media processing system" to Kikinis' file server. In addition, what the Examiner equates to Appellant's "profile" is the following: (1) topics of particular interest **of the client**; and (2) particular details of the receiving equipment **of the client**. This is

clearly described in col. 4, ll. 10-13, where **Kikinis uses the phrases “topics of *their* (*meaning the client’s*) particular interest” and “details of *their* (*meaning the client’s*) local receiving equipment”** to characterize the “profile” of each individual client. Obviously, the “profile” is entirely characterizing, and is exclusively associated with, the individual client, not the file server. There is nothing in Kikinis’ “profile” that is even remotely associated with, or related to, the file server that services the individual client.

The Appellant respectfully submits that independent claims 1, 11, and 21 are allowable.

**II-B & II-C. Rejection of Dependent Claims 2, 12, and 22; Rejection of Dependent Claims 3, 13, and 23**

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal.

In response to Appellant's Brief on Appeal, the Examiner is using the following argument stated on page 9 of the Examiner's Answer:

Regarding claims 2, 3, 12, 13, 22 and 23, Appellants arguments with respect to these claims (Br., 11-13) are substantially identical to those presented with respect to claim 1. For the reasons discussed above, the Examiner respectfully submits that the profile disclosed by Kikinis is "associated with" the media processing system (file server).

The Appellant disagrees. The Examiner has not responded to the arguments stated in pages 11-13 of the Appeal Brief. More specifically, in reference to claims 2, 12, and 22, **the Examiner has not provided any evidence that receiving of media by the file servers (equated to Appellant's “media processing system”) is conditioned upon**

**matching of available media with media specified in the “profile.” In fact, the Appellant points out that Kikinis’ file server does not condition the receiving of media by the file servers upon any event.** For example, Kikinis discloses that videos that are available in the server’s local area are uploaded (there is no conditioning of the uploading, i.e., any available video is uploaded) and then local employees classify (or index) the uploaded videos. All uploaded videos are then stored at the file server and are available for transmission to the individual clients. See Kikinis at col. 3, line 56 – col. 4, line 10.

The Appellant respectfully submits that dependent claims 2, 3, 12, 13, 22, and 23 are allowable.

#### **II-D. Rejection of Dependent Claims 4, 14, and 24**

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal.

In response to Appellant’s Brief on Appeal, the Examiner is using the following argument stated on page 9 of the Examiner’s Answer:

Regarding claims 4, 14 and 24, Appellants argue that Kikinis does not disclose "dynamically updating data in said media profile associated with said at least one media processing system" (Br., 13-14). The Examiner respectfully disagrees, since Kikinis discloses that each client specifies their topics of interest and receiving equipment at the time of subscription (col. 4, ll. 10-13). Since there are numerous clients server by Kikinis' system (fig. 1), each time a new subscriber joins, their subscription information is added to the media server's profile, dynamically updating it with the information needed to notify the new subscriber of new content.

The Appellant is confused as to why the Examiner is referring to “media server’s profile” in the above argument since the only “profile” in Kikinis is associated with the individual client and not the file server as alleged above by the Examiner. The Examiner has already equated (on numerous occasions throughout the Final Office Action and the Examiner's Answer) Appellant’s “media profile” to Kikinis’ profile maintained by the individual clients (and not the file servers). In fact, Kikinis does not disclose that the file servers maintain any profile or a database dependant on the number of subscribed individual clients, nor does Kikinis disclose that the file server “adds subscription information” to any profile.

The Appellant respectfully submits that dependent claims 4, 14, and 24 are allowable.

#### **II-E. Rejection of Dependent Claims 5, 15, and 25**

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal.

The Appellant respectfully submits that dependent claims 5, 15, and 25 are allowable.

#### **II-F, II-G, & II-H. Rejection of Dependent Claims 6, 16, and 26; Rejection of Dependent Claims 7, 17, and 27; Rejection of Dependent Claims 9, 19, and 29**

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal.

The Appellant respectfully submits that dependent claims 6, 7, 9, 16, 17, 19, 26, 27, and 29 are allowable.

**III. The Proposed Combination of Kikinis and Schwartz Does Not Render Claims 8, 10, 18, 20, 28, and 30 Unpatentable**

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal.

In response to Appellant's Brief on Appeal, the Examiner is using the following argument stated on pages 10-11 of the Examiner's Answer:

Regarding claims 8, 18 and 28, Appellants argue that the combination of Kikinis and Schwartz fails to disclose "searching by said at least one media processing system of at least another media processing system in the distributed media network for said one or more of said newly available media" (Br., 17). As noted by Appellants (Br., 18), Schwartz teaches Object Exchange, which facilitates the exchange of shared data between users (col. 3, ll. 14-34; col. 6, ll. 36-40; col. 11, ll. 21-26).

While Appellants assert that Schwartz fails to disclose searching another media processing system (Br., 18-19), it is noted that the rejection is based on the combination of Kikinis and Schwartz. When considered in combination with Kikinis' sharing of media files by sending files at regular intervals (Kikinis: col. 3, l. 66 to col. 4, l. 5), the object exchange system of Schwartz would have suggested to one of ordinary skill in the art that would have been advantageous to allow the media servers to search other servers to locate newly available media, to provide an additional means for locating media and allowing servers to locate media files using specific criteria, rather than simply receiving a bulk delivery of all newly available media.

Appellants arguments attack the references individually, concentrating exclusively on Schwartz. However, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).



The Appellant disagrees. In pages 6-7 of the Final Office Action, the Examiner conceded that Kikinis does not teach "searching by said at least one media processing system of at least another media processing system in the distributed media network for said one or more of said newly available media". The Examiner then sought support in Schwartz to teach the above limitation. As explained in pages 18-19 of the Appeal Brief, Schwartz is deficient as it only discloses an object exchange that facilitates the exchange of shared data, and it does not disclose the above "searching" limitation which is already missing in Kikinis.

The Appellant respectfully submits that dependent claims 8, 10, 18, 20, 28, and 30 are allowable.

### **CONCLUSION**

The Appellant submits that the pending claims are allowable in all respects. Reversal of the Examiner's rejections for all the pending claims and issuance of a patent on the Application are therefore requested from the Board.

The Commissioner is hereby authorized to charge additional fee(s) or credit overpayment(s) to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

Date: 17-NOV-2008

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